

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

William C. McKinnedy III,	)	C/A No.: 6:13-cv-00794-GRA
	)	
Plaintiff,	)	
	)	
v.	)	<b>ORDER</b>
	)	(Written Opinion)
Lt. T. Ramsey; Ofc. M. Walker; Lt. C.	)	
Hartley; Maj. W. Worrock; Associate	)	
Warden K. Newton; IGC P. Smith;	)	
Warden J. Pate; William Byars, Jr.,	)	
Director of SCDC; and Attorney Gen.	)	
Alan Wilson,	)	
	)	
Defendants.	)	
	)	

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This matter comes before the Court for review of United States Magistrate Judge Kevin F. McDonald's Report and Recommendation filed on April 23, 2013, and made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(d), District of South Carolina. Plaintiff William C. McKinnedy III ("Plaintiff") originally filed this action in the Court of Common Pleas in Greenville County, South Carolina. ECF No. 1. Defendants properly removed the case to federal court on March 25, 2013. *Id.* On April 2, 2013, Plaintiff filed a Motion to Remand the case back to state court and a Motion to Amend the Complaint in order to withdraw the federal causes of action.<sup>1</sup> ECF Nos. 13 & 15. Plaintiff also requested that Defendants be ordered to pay all costs of removal, because he did

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<sup>1</sup> A prisoner's motion is deemed filed at the time that it is delivered to the prison mailroom to be forwarded to the district court. *See Houston v. Lack*, 487 U.S. 266, 270, 108 S. Ct. 2379, 101 L.Ed.2d 245 (1988). Plaintiff's Motion to Remand was originally titled "Notice of Removal" which the Clerk of Court properly construed as a motion to remand.

not consent to the removal. ECF No. 15. Defendants responded to Plaintiff's Motion to Remand and stated that they would not oppose the Motion if Plaintiff's Motion to Amend is granted. ECF No. 17. The Court granted Plaintiff's Motion to Amend on April 23, 2013. ECF No. 21. Magistrate Judge McDonald now recommends that this Court grant Plaintiff's Motion to Remand, as this Court lacks subject matter jurisdiction over the case. Report & Recommendation 2, ECF No. 21. The magistrate also recommends that this Court deny Plaintiff's request that Defendants be ordered to pay all costs incurred as a result of the removal. *Id.* at 2–3.

The magistrate makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). This Court may also “receive further evidence or recommit the matter to the magistrate with instructions.” *Id.* In the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198 (4th Cir. 1983). Furthermore, a failure to object waives a party's right to appeal. *Carr v. Hutto*, 737 F.2d 433, 434 (4th Cir. 1984). Objections to the Report and

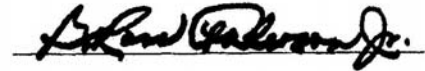
Recommendation were due by May 13, 2013. ECF No. 21. Neither party filed any objections to the Report and Recommendation.

After a thorough review of the Report and Recommendation, this Court finds that it applies sound legal principles to the facts of this case. Therefore, this Court adopts it in its entirety.

**IT IS THEREFORE ORDERED** that Plaintiff's Motion to Remand is GRANTED. Accordingly, the Clerk of Court shall remand this case to the Greenville County Court of Common Pleas.

**IT IS FURTHER ORDERED** that Plaintiff's request that Defendants be ordered to pay all costs associated with the action's removal to federal court is DENIED.

**IT IS SO ORDERED.**

A handwritten signature in black ink, appearing to read "G. Ross Anderson, Jr.", is written over a horizontal line.

G. Ross Anderson, Jr.  
Senior United States District Judge

May 22, 2013  
Anderson, South Carolina